

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1068 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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BHARAT AMBALAL PATEL

Versus

STATE OF GUJARAT

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Appearance:

MS SUBHADRA G PATEL for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 28/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 11th November, 1998, made by the

Commissioner of Police, Surat City, under the powers conferred upon him under sub-section (1) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'dangerous person' and his activities are found to be prejudicial to the maintenance of public order. Two offences have been registered against the petitioner punishable under Chapter XVI of the IPC. Besides, the witnesses have given statements in respect of the nefarious activities of the petitioner.

The only ground on which the impugned order is challenged is : the impugned order has been made long after the cause of action arose. There being no nexus between the cause of action and the action, the order is vitiated. It appears that one of the offences was registered against the petitioner on 17th May, 1998 and the latter on 16th June, 1998. In respect of the latter offence, the petitioner was arrested and was released on bail on 6th July, 1998. Since then, on 30th August, 1998, the statements of the witnesses were recorded and were verified by the Detaining Authority on 10th November, 1998. The order of detention has, thus, been made some five months after the date of offence and three months after recording the statements of the witnesses. It is tried to be explained that the Detaining Authority had to collect some further material and to complete certain formalities, because of which, the order of detention could not be made earlier. The contention is ex-facie vague. It is not known which were the materials required to be collected after the statements of the witnesses were recorded and verified. It is also not mentioned which was the formality which was required to be completed after recording such statements. It, therefore, can not be believed that the delay in making the order has been caused on account of valid reason. The impugned order is vitiated on this ground alone.

Petition is, therefore, allowed. The impugned order dated 11th November, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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